

medical treatment. The Administrative Law Judge, in denying such request, announced that he did not have jurisdiction to award payment of unauthorized medical treatment at a preliminary hearing. Consequently, the claimant did not enter into evidence Dr. Badwey's medical treatment statement in the amount of \$212.00. He did, however, enter into evidence the medical record of the unauthorized medical examination conducted by Dr. Badwey on August 2, 1994.

An employee or the employer is authorized to make application for a preliminary hearing on the issue of furnishing medical treatment. See K.S.A. 44-534a(a)(1). The Administrative Law Judge is authorized to make a preliminary award of medical compensation, pending the conclusion of a full hearing on the claim. See K.S.A. 44-534a(a)(2). One of the definitions for medical compensation in the Workers Compensation Act is contained in K.S.A. 1989 Supp. 44-510(c) as follows:

"Without application or approval, an employee may consult a health care provider of the employee's choice for the purpose of examination, diagnosis or treatment, but the employer shall only be liable for the fees and charges of such health care provider up to a total amount of \$350."

In the instant case, the Administrative Law Judge determined that he does not have jurisdiction to award payment of unauthorized medical at a preliminary hearing. The Appeals Board has defined jurisdiction as the authority to make inquiry and decisions regarding a particular matter. See Cunningham v. Michael Michael, DDS and Cincinnati Insurance Company, Docket No. 177,523 (April 20, 1994). Accordingly, the Appeals Board finds that the Administrative Law Judge does have jurisdiction to award payment of unauthorized medical treatment requested by the claimant at a preliminary hearing. However, since the statement for the unauthorized medical treatment was not allowed to be entered into evidence, the Appeals Board finds that this case should be remanded to the Administrative Law Judge for the introduction of such evidence. The Administrative Law Judge should also make appropriate findings that support his decision as to whether to grant or deny the claimant's request for payment of the unauthorized medical statement.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Preliminary Hearing Order entered by Administrative Law Judge James R. Ward, dated November 17, 1994, is remanded for appropriate findings consistent with the above opinion.

IT IS SO ORDERED.

Dated this ____ day of February, 1995

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

- c: John J. Bryan, Attorney at Law, Topeka, KS
C. Keith Sayler, Attorney at Law, Topeka, KS
Chris Miller, Attorney at Law, Lawrence, KS
James R. Ward, Administrative Law Judge
George Gomez, Director